

To POSTAL REGULATORY COMMISSION

In Matter Of Docket No. A2012-64
 Little America Post Office
 Little America, Wyoming 82929

RECEIVED

2011 NOV 29 P 12: 21

The United States Postal Services Represented by Marcela Juarez Rivera and Gary Sims, In our town hall meeting at Little America Hotel, On April 28, 2011 in the Uinta room. On that day it was misrepresented to 40 plus citizens' of Little America that they would Provide us Service through a rural rout carrier but in fact a Carrier cannot carry cash to Provide change and sell Money Orders & packaging. They also clamed that they could Offer us a contract Post Office but after several months of phone tag and emails to Scott French the General Manager at Little America the represent or of the USPS Offered a Village Post Office but in fact a Village Post Office is not a Post Office it Is not a service at all they cannot sell Money Orders, Send Packages except flat rate. It is not a Post Office at all. Also in the study to close Little America Post Office the Paper work in the study also states that the USPS pays \$7000.00 in benefits to the Employee of the Little America Post Office. In fact the OIC that works at the Little America Post Office is non-career and has been for 4 plus years. Un tell the USPS Starts using the correct figures in the closing studies they are not following the Law they have laws and standards of Service that they need to follow such as In Title 39, Code of Federal Regulations, Part 241.3. In one of the letters from Catherine Wright Manager, Post Office Operations stated that (The recommended Change is tentative and will not lead to a formal proposal unless we conclude that It will provide a maximum degree of) (regular and effective service). And they have Proposed a Village Post Office and that is not what Catherine stated. So in closing I protest the MOTION OF UNITED STATES POSTAL SERVICE TO DISMISS PROCEEDINGS on the grounds of the USPS using false and miss leading content In, most if not all of the closing study and proposals.

Byron Wall
 General delivery
 Little America Wy. 82929

Postal Regulatory Commission
 Office of the Chief Admin. Officer

NOV 28 2011

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

Little America Post Office
Little America, Wyoming 82929

Docket No. A2012-64

**MOTION OF UNITED STATES POSTAL SERVICE
TO DISMISS PROCEEDINGS**
(November 22, 2011)

On, November 14, 2011, the Postal Regulatory Commission (Commission) docketed correspondence from a customer of the Little America, Wyoming Post Office, assigning PRC Docket No. A2012-64 as an appeal, pursuant to 39 U.S.C. § 404(d). That correspondence purported to invoke the Commission's jurisdiction to consider an appeal of a Postal Service Final Determination to close the Little America, Wyoming Post Office. The appeal was sent to the Commission by Express Mail service, was postmarked on November 3, 2011, and received by the Commission on November 4, 2011.¹

The appeal was untimely filed. Under 39 U.S.C. § 404(d)(5), "[a] determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory

¹ A copy of the Express Mail Envelope used to transmit the appeal is attached. The envelope indicates that the document was postmarked on November 3, 2011. (See Exhibit 1.) The United States Postal Service Track/Confirm Inquiry shows that the Express Mail Envelope was received by the Postal Regulatory Commission on November 4, 2011. (See Exhibit 2.)

Commission within 30 days after such determination is made available to such person.”² Section 404(d)(6) provides that:

[f]or purposes of paragraph (5), any appeal received by the Commission shall –

- (A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or
- (B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).³

In this case, the Final Determination to Close Little America, WY, Post Office and Continue to Provide Rural Route Service was posted at the Little America, Wyoming Post Office from August 29, 2011 through September 30, 2011. Thus, it is clear that the appeal was untimely filed. As indicated above, the appeal was postmarked November 3, 2011 and received by the Commission on November 4, 2011. Both dates are well after September 30, 2011, the end of the Final Determination posting period in this docket.⁴

Statutory time limits for the initiation of legal action set by Congress, such as 39 U.S.C. § 404(d)(5), are limited waivers of sovereign immunity that define the jurisdiction of the reviewing body. See Irwin v. Dept. of Veterans Affairs, 498 U.S. 89 (1990). Irwin involved the interpretation of 42 U.S.C. § 2000e-16(c), which sets a 30 day time limit in language very similar to that used in section 404(d)(5): “[w]ithin thirty days of receipt of notice of final action taken by ... the

² 39 U.S.C. § 404(d)(5).

³ 39 U.S.C. § 404(d)(6).

⁴ The Postal Service attaches to this pleading the round-date stamped Final Determination to Close Little America, WY, Post Office and Continue to Provide Rural Route Service, which was posted at the Little America, Wyoming Post Office from August 29, 2011 through September 30, 2011. (See Exhibit 3.)

Equal Employment Opportunity Commission, [an aggrieved party] may file a civil action" Id. at 94. The Supreme Court noted the similarity of this time limit to others applicable in suits filed against the government, and that such congressional waivers of sovereign immunity must be construed very narrowly. Id. The same principle applies here and militates in favor of dismissal.

In sum, the 30 day time limit embodied in section 404(d)(5) is a limit upon the jurisdiction of the Commission that must be strictly construed. Therefore, the Commission should dismiss the late appeal as untimely and moot.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By:

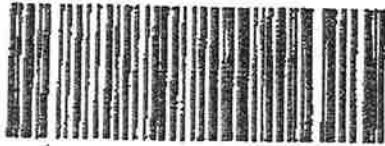
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November 22, 2011

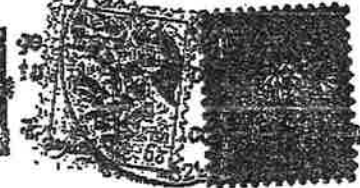
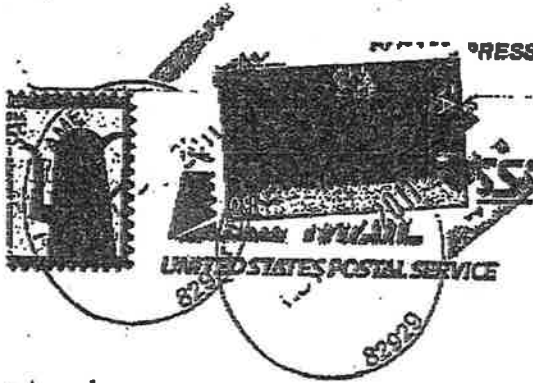
EXHIBIT 1

772



7006 0810 0005 2588 1865

Rush To



PLEASE PRESS FL

Handwritten note: # on Exp. post date



E6 711028775 US



Mailing Label
Label 11-8, March 2004

Post Office To Addressee

PRESS HARD. YOU ARE MAKING 3 COPIES.

ORIGINAL POSTAL SERVICE USE ONLY			
PD ZIP Code 82929	Day of Delivery <input checked="" type="checkbox"/> Mon <input type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thu <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun	Postage \$ 18.30	
Date Accepted 11/3/11	Month 11 Day 3 Year 11	Return Receipt Fee \$ 2.30 + 2.88	
Time Accepted 1:00 PM	Scheduled Time of Delivery <input type="checkbox"/> Mon <input checked="" type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thu <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun	ODD Fee \$	Insurance Fee \$
Flat Rate or Weight No. 2	Delivery <input type="checkbox"/> 1st Day <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Total Postage & Fees \$ 23.45	
	Int'l Alpha Country Code	Acceptance Smp. Initials gudm	

FROM: PLEASE PRINT
Byron Wall
Little America Hotel
General Delivery
Little America WY 82929
Phone: 307-873-2400
307-677-4655

FOR PICKUP OR TRACKING
Visit www.usps.com

DELIVERY (POSTAL USE ONLY)			
Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
No. Day			
Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
No. Day			
Delivery Attempt	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
No. Day			

TO: PLEASE PRINT / PHONE 1

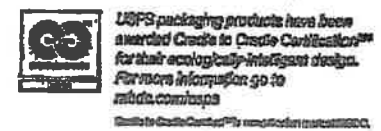
Postal Regulatory Commission
901 New York Ave NW Suite 200
Washington DC

ZIP + 4 20268-0001

FOR INTERNATIONAL DESTINATIONS, TYPE COUNTRY NAME BELOW.

EXHIBIT 1
PRC DOCKET No. A2012-64

When used internationally
affix customs declarations
(PS Form 2976, or 2976A)



Please recycle.

EXHIBIT 2



Track/Confirm - Intranet Item Inquiry - Domestic

Tracking Label: EG71 1028 975U S

Destination	ZIP Code: 20268-0001	City: WASHINGTON	State: DC
Origin	ZIP Code: 82929-9900	City: LITTLE AMERICA	State: WY

Class/Service: Express Mail PO-Add

Service Calculation Information

Service Performance Date

Guaranteed Delivery Date / Time: 11/04/2011 12:00

Weight: 0 lb(s) 2 oz(s)

Postage: \$18.30

Firm Book ID: 5103 OSGU A667 5280 0906

Delivery Option Indicator: No Sunday or Holiday Delivery

PO Box?: N

Rate Indicator: EXPRESS MAIL FLAT RATE POST OFFICE TO ADDRESSEE

Special Services	Associated Labels	Amount
Return Receipt	EG71 1028 975U S	\$2.30

Event	Date/Time	Location	Scanner ID
DELIVERED	11/04/2011 10:36	WASHINGTON, DC 20268	030SHQ10TT
	Input Method: Firm Book		
	Finance Number: 105010		
	Firm Name: POSTAL RATE 20268R22		
	Recipient: 'J ARTIS'		
SORTING/PROCESSING COMPLETE	11/04/2011 10:27	WASHINGTON, DC 20022	
	Input Method: System Generated		
ARRIVAL AT UNIT	11/04/2011 09:55	WASHINGTON, DC 20022	030SGUA667
	Input Method: Firm Book		
ENROUTE/PROCESSED	11/04/2011 08:22	WASHINGTON, DC 20074	EESS-002- 000001
	Input Method: Scanned		
DEPART USPS SORT FACILITY	11/03/2011 20:04	SALT LAKE CITY, UT 84199	

Input Method: System Generated**Dispatch Label ID:** DS1441454000111103210833

ENROUTE/PROCESSED 11/03/2011 18:33

SALT LAKE CITY, UT
84199

030SHQ151T

Input Method: Scanned

ACCEPT OR PICKUP 11/03/2011 13:00

LITTLE AMERICA, WY
82929**Input Method:** Manually Entered**Enter Request Type and Item Number:**Quick Search ☒Extensive Search ☐

Version 1.0

Inquire on multiple items.Go to the Product Tracking System Home Page.

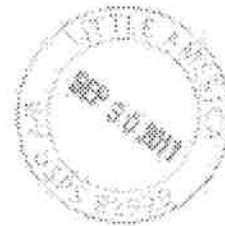
EXHIBIT 3

EXHIBIT 3
PRC DOCKET No. A2012-64



Date of Posting:

Date of Removal:



FINAL DETERMINATION TO CLOSE
THE LITTLE AMERICA, WY POST OFFICE
AND CONTINUE TO PROVIDE
SERVICE BY HIGHWAY CONTRACT ROUTE SERVICE

DOCKET NUMBER 1370618 - 82929